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TREASURY FOR OTI

E.O. 12958: DECL: 09/19/2016
TAGS: [KTFN](#) [PTER](#) [EFIN](#) [ETTC](#) [TU](#)
SUBJECT: PRIME MINISTER OVERRULES BUREAUCRACY IN SUPPORT OF
AL-QADI

REF: A. SECSTATE 147545

[1](#)B. ANKARA 5139
[1](#)C. ANKARA 5001
[1](#)D. ANKARA 4266

Classified By: Ambassador Ross Wilson for reasons 1.4 (b) and (d).

[1](#)1. (C) A distraught MFA Director General for Security Affairs Hayati Guven (please protect) told us he understood that Turkish press reports were true that the Prime Ministry had applied -- on PM Erdogan's personal instructions -- to withdraw its earlier appeal of the July 20 Danistay (Council of State) July 20 ruling that invalidated the freeze on Yasin al-Qadi's assets in Turkey pursuant to UNSCR 1267. The Foreign Ministry is currently discussing whether or not to withdraw its separate appeal, which Guven thought probable. He was not sure of the time line but thought the assets would be released absent an appeal. He also said the Danistay's reasoning applied to other cases in which the Council of Ministers had frozen assets of terrorist financiers.

[1](#)2. (C) Guven was acutely aware of the likely negative repercussions the decision would have on Turkey's relations with the United Nations and on bilateral relations, including with the United States. Even worse, he worried that terrorists would view Turkey's financial system as a safe haven. When we stressed the seriousness of the action, Guven abjectly replied with rhetorical question, "What can I do when the Prime Minister has made a decision?" He said he had alerted MFA U/S Tuygan to the gravity of the situation and recommended an urgent meeting with Minister Gul as soon as he returns from the United States to decide on next steps.

[1](#)3. (C) Guven elaborated on the reasoning in the Danistay's July 20 decision invalidating the Council of Minister's freezing of al-Qadi's assets (reftels). He said the court's reasoning was two-fold: first the court did not feel there was sufficient evidence in the al-Qadi case. More broadly, the court cited property rights as guaranteed by the Turkish Constitution and found that the Government alone did not have the authority to take away such rights absent either a court decision or a law. Guven said that he had long recognized that the Turkish legal regime for freezing assets is flawed, and had so informed representatives of the 1267 Committee. He also thought the UN needed to do more to help countries -- he said Turkey was not the only country facing this predicament -- implement 1267 listings.

[1](#)4. (C) Comment: Guven (please protect) was very open with us and made it clear that the decision to withdraw the appeal came directly from Erdogan, whose personal relationship with

al-Qadi seems to have prevailed over the recommendation of the bureaucracy (including the Prime Ministry bureaucrat who signed the appeal). Erdogan and his associates, including FM Gul need to hear quickly and loudly that this will have serious consequences for Turkey's relations with the United States and the rest of the international community that is struggling to combat international terrorism. Gul's meetings with NSA Hadley and the Secretary are the first opportunities to make this clear. Erdogan's meeting with the President is the next.

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WILSON